

Title	Receivership Rules and Forms—Amended Rules; Orders for Appointment or Confirmation of Receivers and for Temporary Restraining Orders and Preliminary Injunctions
Summary	The receivership rules of the California Rules of Court would be amended and relocated to Title Five (Special Rules for the Trial Courts). Four proposed new forms would provide standard form orders for (1) the ex parte appointment of a receiver, order to show cause, and temporary restraining order; (2) the confirmation of a receiver and preliminary injunction; (3) an order to show cause and temporary restraining order; and (4) the appointment of a receiver and preliminary injunction after hearing.
Source	Civil and Small Claims Advisory Committee
Staff	Patrick O'Donnell, Committee Counsel (415-865-7665).
Discussion	<p><u>The Amended Rules</u></p> <p>Current rules 349, 351, and 353 of the California Rules of Court relate to the appointment of receivers. These rules would be renumbered and relocated in Title Five (Special Rules for the Trial Courts) so that they would be situated together with other rules on special proceedings. The language of the rules would be modified to be consistent with the policy favoring the use of plain language in the California Rules of Court.</p> <p>A commentator has observed that the times for the hearings and service of papers in rule 1901 (formerly rule 351) and rule 1902 (formerly rule 353) may be unrealistic or impractical. For example, the rules provide that, whenever a receiver is appointed ex parte, the matter must be heard within 10 days from the date of the order to show cause. This rule is intended to protect defendants, but may not afford them sufficient time to retain an attorney and prepare a proper response. Thus, it has been suggested that the times provided in the rules should be expanded. Comments are invited on this suggestion.</p> <p>In addition, the advisory committee invites recommendations for any changes to the receivership rules that may be necessary or helpful to:</p> <ol style="list-style-type: none"> 1. Simplify, standardize, or improve the procedures by which receivers are appointed; and 2. Implement the standard receivership orders described below. <p><u>The Orders</u></p>

The Superior Court of Los Angeles County has proposed the statewide adoption of the standard orders similar to those it uses in receivership proceedings. The California Receivers Forum also supports the adoption of standard orders on receiverships.

The proposed orders are based on the standard form orders required by the Superior Court of Los Angeles County. Those orders, however, have been extensively modified, simplified, and put into Judicial Council form format. The forms orders are:

1. *Ex Parte Order Appointing Receiver and Order to Show Cause and Temporary Restraining Order–Real Property* (Form RC-200);
2. *Order Confirming Appointment of Receiver and Preliminary Injunction–Real Property* (Form RC-210);
3. *Order to Show Cause and Temporary Restraining Order–Real Property* (Form RC-300); and
4. *Order Appointing Receiver and Preliminary Injunction After Hearing–Real Property* (Form RC-310)

Comments are invited on (1) the specific provisions in the form orders, and (2) whether these forms should be **mandatory** or **optional**.

Attachments

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PROPOSAL

Rules 349, 351, and 353 of the California Rules of Court would be renumbered and amended, effective January 1, 2002, to read:

TITLE FIVE

SPECIAL RULES FOR TRIAL COURTS

Division VI

Rules for Receiverships

Rule ~~349~~ 1900. Ex parte appointment of receiver

- (a) **[Application]** In addition to any other matters supporting an application for the ex parte appointment of a receiver, the applicant ~~shall~~ must show in detail by verified complaint or affidavit:
- (1) The nature of the emergency and the reasons irreparable injury would be suffered by the applicant during the time necessary for a hearing on notice;
 - (2) The names, addresses, and telephone numbers of the persons in actual possession of the property for which a receiver is requested, or of the president, manager, or principal agent of any corporation in possession of the property;
 - (3) The use being made of the property by the persons in possession; and
 - (4) If the property is a party of the plant, equipment, or stock in trade of any business, the nature and approximate size or extent of the business, and facts sufficient to show whether the taking of the property by a receiver would stop or seriously interfere with the operation of the business.
- (b) **[Showing of diligence]** If any of the matters enumerated in section (a) are unknown to the applicant and cannot be ascertained by the exercise of due diligence, the applicant may be excused from setting them forth. In that case, the affidavit or complaint ~~shall~~ must fully state the matters unknown and the efforts made to acquire the information.

1 **Rule 351 1901. Confirmation of ex parte appointment of receiver**

- 2
- 3 (a) **[Order to show cause]** Whenever a receiver is appointed without
- 4 notice, the matter ~~shall~~ must be made returnable upon an order to show
- 5 cause why the appointment should not be confirmed. The order to show
- 6 cause ~~shall~~ must be made returnable on the earliest date that the
- 7 business of the court will admit, but not later than 10 days from the date
- 8 of the order.
- 9
- 10 (b) **[Service of complaint, affidavits, points and authorities]** At least two
- 11 days prior to the hearing, unless the time is shortened by the court, the
- 12 applicant ~~shall~~ must serve on each of the adverse parties a copy of the
- 13 complaint, all affidavits, and a memorandum of points and authorities.
- 14
- 15 (c) **[Failure to proceed or serve adverse party]** When the matter first
- 16 comes on for hearing, the party who obtained the appointment ~~shall~~
- 17 must be ready to proceed. If that party is not ready to proceed or has
- 18 failed to exercise diligence to effect service upon the adverse parties as
- 19 provided in section (b), the court may discharge the receiver.
- 20
- 21 (d) **[Continuance]** The adverse parties ~~shall be~~ are entitled to one
- 22 continuance to enable them to oppose the confirmation.
- 23
- 24 (e) **[Showing by adverse parties]** The adverse parties may, in response to
- 25 the order to show cause, present affidavits or verified answers. If the
- 26 affidavits or answers are served on the applicant at least two days prior
- 27 to the hearing, the applicant ~~shall~~ will not be entitled to a continuance
- 28 on account thereof.
- 29
- 30 (f) **[Hearing]** On the day the order is returnable, the hearing ~~shall~~ must
- 31 take precedence over all other matters on the calendar of that day except
- 32 earlier matters of the same character and matters to which special
- 33 precedence may be given by law.
- 34

35 **Rule 353 1902. Miscellaneous provisions regarding receivers**

- 36
- 37 (a) **[Nomination of receivers]** On the hearing of an application for
- 38 appointment of a receiver on notice or on the hearing for confirmation
- 39 of an ex parte appointment, each party appearing may, at the time of the
- 40 hearing, suggest in writing one or more persons for appointment or
- 41 substitution as receiver, stating the reasons. ~~The A party's~~ A party's suggestion
- 42 ~~shall be~~ is without prejudice to ~~objections~~ its objection to the
- 43 appointment or confirmation of a receiver.

- 1 (b) **[Employment of attorney]** A receiver ~~shall~~ must not employ an
2 attorney without the approval of the court. The application for approval
3 ~~shall~~ must be in writing and ~~shall~~ must state the necessity for the
4 employment, the name of the attorney whom the receiver proposes to
5 employ, and that the attorney is not attorney for, or associated with or
6 employed by an attorney for any party.
7
- 8 (c) **[Receiver's inventory]** A receiver ~~shall~~ must, within 10 days after
9 appointment or within further time as the court may grant, file an
10 inventory containing a complete and detailed list of all property of
11 which the receiver has taken possession by virtue of the appointment;
12 the receiver ~~shall~~ must promptly file a supplementary inventory of all
13 subsequently obtained property.
14
- 15 (d) **[Receiver's account]** Before a receiver's account is presented for
16 settlement, 10 days' written notice ~~shall~~ must be given to all parties who
17 have appeared in the proceeding. If any allowance of compensation for
18 the receiver or for an attorney employed by the receiver is claimed in
19 the account, it ~~shall~~ must state in detail what services have been
20 performed by the receiver or the attorney, as the case may be, and
21 whether previous allowances have been made to the receiver or attorney
22 and the amounts.
23
- 24 (e) **[Orders]** A court appointing a receiver or granting injunctive relief in a
25 receivership proceeding must use the applicable Judicial Council form
26 orders.

Date:	Time:	Dept.:	Room:
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ORDER TO SHOW CAUSE

- ## ORDER APPOINTING RECEIVER

PLAINTIFF (Name): DEFENDANT (Name):	CASE NUMBER:
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6. ☐ **Management company.** The receiver may employ the management company of (*specify*):
- a. ☐ The receiver may pay the company not more than
- (1) \$ per month per hour other (*specify*):
- (2) percent of gross monthly rents
- (3) \$ as a one-time start-up fee
- b. ☐ Management company fees are included in receiver's fees in item 5.
7. **Disclosure.** The receiver shall immediately disclose to all parties any financial relationship between the receiver and any company hired to assist in the management of the receivership property.
8. **Plaintiff's ex parte bond.** Plaintiff shall immediately file an applicant's bond under Code of Civil Procedure section 566(b) for: \$
9. **General duties.** After qualifying, the receiver
- a. shall take possession of and manage the property,
- b. shall collect the income from the property,
- c. shall care for the property and may incur the expenses necessary for that care, and
- d. may change the locks on the property.
10. **Prohibited agreements.** The receiver shall not enter into an agreement with any party to this action about the administration of the receivership or about any postreceivership matter.
11. **Inventory.** Within 30 days after qualifying, the receiver shall file an inventory of all property possessed under this order.
12. **Expenditures.** The receiver shall expend money coming into his or her possession to operate and preserve the property and only for the purposes authorized in this order. Unless the court orders otherwise, the receiver shall hold the balance in interest-bearing accounts.
13. **Leases and rentals.** The receiver may without court approval enter into leases for a term not exceeding one year, obtain and evict tenants, and set and modify the amount and terms of leases.
14. **Security deposits.** Unless the security deposit has been turned over to or has been paid to the receiver, the receiver shall not refund a deposit to a tenant.
15. **Monthly accounting of receiver's income, expenses, and fees.**
- a. The receiver shall each month prepare and serve on the parties — but not file — an accounting of the income and expenses incurred in the administration of the receivership property, including the receiver's fees and expenses.
- b. The receiver may pay the receiver's own fees and expenses only by the following procedures:
- (1) By serving and filing a notice of intent to pay to which no objection is filed within 15 days of the date the notice is mailed.
- (2) By serving and filing a request for interim payment, which the court then approves.
- (3) By obtaining and filing an agreement among all the parties approving the payment, which the court then approves.
- (4) By filing the receiver's final accounting and report, which the court then approves.
- c. The receiver shall not reimburse the receiver for general office administration expenses or overhead without court approval. These expenses include, for example, office supplies, employee payroll, employee benefits, and taxes.
16. **Management.**
- a. The receiver shall operate the property and take possession of all accounts relating to the property.
- b. The receiver may
- (1) employ agents, employees, clerks, accountants, and property managers to administer the receivership property, and
- (2) purchase materials, supplies, and services reasonably necessary to administer the receivership property.
- c. The receiver may do all the things — and incur the risks and obligations — ordinarily done or incurred by owners, managers, and operators of businesses and property similar to that possessed by the receiver; *except* the receiver shall not make any capital improvements to the property without prior court approval.

PLAINTIFF (Name):	CASE NUMBER:
DEFENDANT (Name):	

17. **Bank accounts.** The receiver
 - a. may establish accounts at any financial institutions insured by an agency of the United States government that are not parties to this proceeding,
 - b. shall deposit in those accounts funds received in connection with the receivership property, and
 - c. shall deposit in interest-bearing accounts money not expended for receivership purposes.

18. **Court instructions.** The receiver and the parties may at any time apply to this court for further instructions and orders and for additional powers necessary to enable the receiver to perform the receiver's duties properly.

19. **Insurance.**
 - a. The receiver shall determine upon taking possession of the property whether there is sufficient insurance coverage.
 - b. The receiver shall notify the insurer that the receiver is to be named as an additional insured on each insurance policy on the property.
 - c. If the receiver determines that the property does not have sufficient insurance coverage, the receiver shall immediately notify the parties and shall procure sufficient all-risk and liability insurance on the property (excluding earthquake and flood insurance).
 - d. If the receiver does not have sufficient funds to obtain insurance, the receiver shall seek instructions from the court on whether to obtain insurance and how it is to be paid for.

20. **Employment of attorneys.**
 - a. The receiver may employ unlawful detainer attorneys and eviction services without a court order.
 - b. ☐ The receiver may employ counsel (name):
at the hourly rate of: \$
 - c. ☐ Except as provided in items 20a and 27d, before employing counsel the receiver shall apply to the court for an order authorizing the receiver to employ counsel.

21. **Taxpayer ID numbers.** The receiver may use any federal taxpayer identification numbers relating to the property for any lawful purpose.

22. **Duty to turn over possession.** Upon receipt of a copy of a recorded trustee's deed upon foreclosure or written notice from plaintiff that defendant has cured the defaults existing under plaintiff's loan documents or that plaintiff has accepted a deed in lieu of foreclosure, the receiver shall, without further order of the court, turn over possession of the property to the successful purchaser or defendant or plaintiff respectively.

23. **Plaintiff's notification of termination.** Plaintiff shall notify the receiver in writing within 48 hours of any event within plaintiff's knowledge that terminates the receivership.

24. **Receiver's final report and account and discharge.**
 - a. *Motion required.* Discharge of the receiver shall require a court order upon noticed motion for approval of the receiver's final report and account and exoneration of the receiver's bond.
 - b. *Time.* Not later than 60 days after the receivership terminates, the receiver shall file, serve, and obtain a hearing date on a motion for discharge and approval of the final report and account.
 - c. *Notice.* The receiver shall give notice to all persons of whom the receiver is aware who have potential claims against the receivership property.
 - d. *Contents of motion.* The motion to approve the final report and account and for discharge of the receiver shall contain the following:
 - (1) *Receiver's declaration.* A declaration by the receiver stating what was done during the receivership and certifying the accuracy of the final accounting.
 - (2) *Accounting summary.* A summary of the receivership accounting, which shall include the total revenues received, the total expenditures identified and enumerated by major categories, the net amount of any surplus or deficit, and evidence of necessary supporting facts.
 - (3) *Plaintiff's declaration.* A declaration from the plaintiff containing evidence of the basis for the termination of the receivership (such as foreclosure or reinstatement) and admissible evidence to support an order for the distribution of any surplus or payment of any deficit.

PLAINTIFF (Name):	CASE NUMBER:
DEFENDANT (Name):	

25. **Plaintiff's notice to receiver.** Plaintiff shall promptly notify the receiver in writing of the names, addresses, and telephone numbers of all parties who appear in the action and their counsel. The parties shall give notice to the receiver of all events that affect the receivership.
26. **Bankruptcy — Plaintiff's duty to give notice.** If a defendant files a bankruptcy case during the receivership, plaintiff shall give notice of the case to the court, to all parties, and to the receiver within 24 hours after plaintiff receives notice of the bankruptcy filing.
27. **Bankruptcy — Receiver's duties.** If the receiver receives notice that a bankruptcy has been filed and part of the bankruptcy estate includes property that is the subject of this order, the receiver shall have the following duties:
- Turn over property if no relief from stay will be sought.* The receiver shall immediately contact the party who obtained the appointment of the receiver and determine whether that party intends to move in the bankruptcy court for an order for (a) relief from the automatic stay, and (b) relief from the receiver's obligation to turn over the property (11 U.S.C. § 543). If the party has no intention to make such a motion, the receiver shall immediately turn over the property to the appropriate entity — either to the trustee in bankruptcy if one has been appointed or, if not, to the debtor in possession — and otherwise comply with 11 United States Code section 543.
 - Remain in possession pending resolution.* If the party who obtained the receivership intends to seek relief immediately from both the automatic stay and the receiver's obligation to turn over the property, the receiver may remain in possession and preserve the property pending the ruling on those motions (11 U.S.C. § 543(a)). The receiver's authority to preserve the property shall be limited as follows:
 - The receiver may continue to collect rents and other income;
 - The receiver may make only those disbursements necessary to preserve and protect the property;
 - The receiver shall not execute any new leases or other long-term contracts; and
 - The receiver shall do nothing that would effect a material change in the circumstances of the property.
 - Turn over property if no motion for relief is filed within 10 days after notice of the bankruptcy.* If the party who obtained the receivership fails to file a motion within 10 court days after their receipt of notice of the bankruptcy filing, the receiver shall immediately turn over the property to the appropriate entity — either to the trustee in bankruptcy if one has been appointed or, if not, to the debtor in possession — and otherwise comply with 11 United States Code section 543.
 - Retain bankruptcy counsel.* The receiver may retain legal counsel to assist the receiver with issues arising out of the bankruptcy proceedings that affect the receivership.
 - Failure to turn over property.* A receiver who fails to turn over the property in accordance with this order shall not be paid for time and expenses after the date the receiver should have turned the property over.
28. ☐ **Other orders.** (Additional orders may include authority of the receiver to do any other acts arising from special circumstances.) Other orders ☐ are specified in Attachment 28 ☐ are as follows (specify):

PLAINTIFF (Name):	CASE NUMBER:
DEFENDANT (Name):	

☐ **TEMPORARY RESTRAINING ORDER**

29. THIS ORDER EXPIRES AT THE DATE AND TIME OF THE HEARING SHOWN IN THE BOX ON PAGE ONE (UNDER "NOTICE OF HEARING") UNLESS EXTENDED BY THE COURT.
30. DEFENDANT IS ORDERED to
- a. **Turn over property.** Immediately turn over possession of the property described in Attachment 2a to the receiver when the appointment becomes effective, including any security deposits, prepaid rent, other rental or lease payments, and funds in property management bank accounts for the property.
 - b. **Turn over related items.** Immediately turn over to the receiver all keys, books, documents, and records relating to the property and advise the receiver of federal taxpayer identification numbers relating to the property.
 - c. **Insurance.**
 - (1) Immediately advise the receiver about the nature and extent of insurance coverage on the property;
 - (2) Immediately name the receiver as an additional insured on each insurance policy on the property; and
 - (3) NOT cancel, reduce, or modify the insurance coverage.
 - d. **Restraints.** Refrain from
 - (1) committing or permitting any waste on the property or any act on the property in violation of law or removing, encumbering, or otherwise disposing of any of the fixtures on the property;
 - (2) demanding, collecting, or in any other way diverting or using any of the rents from the property;
 - (3) interfering in any manner with the discharge of the receiver's duties under this order;
 - (4) selling, transferring, disposing, encumbering, or concealing the property without a prior court order; and
 - (5) doing any act that will impair the preservation the property or plaintiff's interest in the property.
 - e. ☐ **Other (specify):**
31. PLAINTIFF IS ORDERED to immediately file a temporary restraining order bond under Code of Civil Procedure section 529 for: \$
32. ☐ **OTHER ORDERS (specify):**
☐ Specified in Attachment 32.

SERVICE AND BRIEFING SCHEDULE

33. By (date): PLAINTIFF IS ORDERED to personally serve on each defendant or counsel and any other appearing parties — and file proof of service — summons and complaint, the memorandum of points and authorities, these orders, and all declarations and supporting papers.
34. By (date): DEFENDANT IS ORDERED to personally serve on each plaintiff or counsel and any other appearing parties — and file proof of service — any opposition to these orders.
35. By (date): PLAINTIFF IS ORDERED to personally serve on each defendant or counsel — and file proof of service — any reply to defendant's opposition to these orders.
36. Number of pages attached: ____

Date: _____

JUDGE OF THE SUPERIOR COURT

1. The court on ex parte application appointed as receiver of the property described in Attachment 1 (*attach description*):
 - a. (*Name*):
 - b. On (*date*):
2. Hearing on the *Ex Parte Order to Show Cause* (form RC-100) was held as follows:
Date: Time: Dept.: Room:
3. The receiver has filed the receiver's oath as ordered by the court.
4. The receiver has filed a receiver's bond as ordered by the court (*check one*):
 - a. ☐ No further bond is required. The previously filed bond shall remain in effect.
 - b. ☐ The receiver shall immediately file additional bond under Code of Civil Procedure section 567(b) for: \$
5. THE COURT ORDERS that the appointment of the receiver is confirmed as specified in the *Ex Parte Order Appointing Receiver* (form RC-100) filed on (*date*):
6. PLAINTIFF IS ORDERED to immediately file a Code of Civil Procedure section 529 bond (injunction undertaking) for: \$

7. DEFENDANT IS ORDERED to
- a. **Turn over property.** Immediately turn over possession of the property described in Attachment 1 to the receiver when the appointment becomes effective, including any security deposits, prepaid rent, other rental or lease payments, and funds in property management bank accounts for the property.
 - b. **Turn over related items.** Immediately turn over to the receiver all keys, books, documents, and records relating to the property and advise the receiver of federal taxpayer identification numbers relating to the property.
 - c. **Insurance.**
 - (1) Immediately advise the receiver about the nature and extent of insurance coverage on the property;
 - (2) Immediately name the receiver as an additional insured on each insurance policy on the property; and
 - (3) NOT cancel, reduce, or modify the insurance coverage.

PLAINTIFF (Name):	CASE NUMBER:
DEFENDANT (Name):	

7. d. **Restraints.** Refrain from
- (1) committing or permitting any waste on the property or any act on the property in violation of law or removing, encumbering, or otherwise disposing of any of the fixtures on the property;
 - (2) demanding, collecting, or in any other way diverting or using any of the rents from the property;
 - (3) interfering in any manner with the discharge of the receiver's duties under this order;
 - (4) selling, transferring, disposing, encumbering, or concealing the property without a prior court order; and
 - (5) doing any act that will impair the preservation the property or plaintiff's interest in the property.

e. ☐ **Other** (specify):

8. ☐ OTHER ORDERS (specify):
- ☐ Specified in Attachment 8.

9. Number of pages attached: ____

Date:

JUDGE OF THE SUPERIOR COURT

Date:	Time:	Dept.:	Room:
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ORDER TO SHOW CAUSE

- # TEMPORARY RESTRAINING ORDER

- Page 1 of 2

PLAINTIFF (Name):	CASE NUMBER:
DEFENDANT (Name):	

4. d. **Selling property.** Selling, transferring, disposing, encumbering, or concealing the property without a prior court order.
- e. **Impairing interests.** Doing any act that will impair the preservation the property or plaintiff's interest in the property.
- f. **Canceling insurance.** Canceling, reducing, or modifying the insurance coverage on the property.
5. PLAINTIFF IS ORDERED to immediately file a temporary restraining order bond under Code of Civil Procedure section 529 for: \$
6. ☐ OTHER ORDERS (specify):
☐ Specified in Attachment 6.

SERVICE AND BRIEFING SCHEDULE

7. By (date): PLAINTIFF IS ORDERED to personally serve on each defendant or counsel and any other appearing parties — and file proof of service — summons and complaint, the memorandum of points and authorities, those orders, and all declarations and supporting papers.
8. By (date): DEFENDANT IS ORDERED to personally serve on each plaintiff or counsel and any other appearing parties — and file proof of service — any opposition to these orders.
9. By (date): PLAINTIFF IS ORDERED to personally serve on each defendant or counsel — and file proof of service — any reply to defendant's opposition to these orders.
10. Number of pages attached: ____

Date: _____

JUDGE OF THE SUPERIOR COURT

1. **Hearing date and property description.** Hearing on the *Order to Show Cause* (form RC-300) for the appointment of a receiver of the property described in Attachment 1 (*attach description of real and personal property*) was held as follows:

PLAINTIFF (Name): DEFENDANT (Name):	CASE NUMBER:
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7. **General duties.** After qualifying, the receiver
 - a. shall take possession of and manage the property,
 - b. shall collect the income from the property,
 - c. shall care for the property and may incur the expenses necessary for that care, and
 - d. may change the locks on the property.

8. **Prohibited agreements.** The receiver shall not enter into an agreement with any party to this action about the administration of the receivership or about any postreceivership matter.

9. **Inventory.** Within 30 days after qualifying, the receiver shall file an inventory of all property possessed under this order.

10. **Expenditures.** The receiver shall expend money coming into his or her possession to operate and preserve the property and only for the purposes authorized in this order. Unless the court orders otherwise, the receiver shall hold the balance in interest-bearing accounts.

11. **Leases and rentals.** The receiver may without court approval enter into leases for a term not exceeding one year, obtain and evict tenants, and set and modify the amount and terms of leases.

12. **Security deposits.** Unless the security deposit has been turned over to or has been paid to the receiver, the receiver shall not refund a deposit to a tenant.

13. **Monthly accounting of receiver's income, expenses, and fees.**
 - a. The receiver shall each month prepare and serve on the parties — but not file — an accounting of the income and expenses incurred in the administration of the receivership property, including the receiver's fees and expenses.
 - b. The receiver may pay the receiver's own fees and expenses only by the following procedures:
 - (1) By serving and filing a notice of intent to pay to which no objection is filed within 15 days of the date the notice is mailed.
 - (2) By serving and filing a request for interim payment, which the court then approves.
 - (3) By obtaining and filing an agreement among all the parties approving the payment, which the court then approves.
 - (4) By filing the receiver's final accounting and report, which the court then approves.
 - c. The receiver shall not reimburse the receiver for general office administration expenses or overhead without court approval. These expenses include, for example, office supplies, employee payroll, employee benefits, and taxes.

14. **Management.**
 - a. The receiver shall operate the property and take possession of all accounts relating to the property.
 - b. The receiver may
 - (1) employ agents, employees, clerks, accountants, and property managers to administer the receivership property, and
 - (2) purchase materials, supplies, and services reasonably necessary to administer the receivership property.
 - c. The receiver may do all the things — and incur the risks and obligations — ordinarily done or incurred by owners, managers, and operators of businesses and property similar to that possessed by the receiver; *except* the receiver shall not make any capital improvements to the property without prior court approval.

15. **Bank accounts.** The receiver
 - a. may establish accounts at any financial institutions insured by an agency of the United States government that are not parties to this proceeding,
 - b. shall deposit in those accounts funds received in connection with the receivership property, and
 - c. shall deposit in interest-bearing accounts money not expended for receivership purposes.

16. **Court instructions.** The receiver and the parties may at any time apply to this court for further instructions and orders and for additional powers necessary to enable the receiver to perform the receiver's duties properly.

PLAINTIFF (Name):	CASE NUMBER:
DEFENDANT (Name):	

17. Insurance.

- a. The receiver shall determine upon taking possession of the property whether there is sufficient insurance coverage.
- b. The receiver shall notify the insurer that the receiver is to be named as an additional insured on each insurance policy on the property.
- c. If the receiver determines that the property does not have sufficient insurance coverage, the receiver shall immediately notify the parties and shall procure sufficient all-risk and liability insurance on the property (excluding earthquake and flood insurance).
- d. If the receiver does not have sufficient funds to obtain insurance, the receiver shall seek instructions from the court on whether to obtain insurance and how it is to be paid for.

18. Employment of attorneys.

- a. The receiver may employ unlawful detainer attorneys and eviction services without a court order.
- b. ☐ The receiver may employ counsel (name):
at the hourly rate of: \$
- c. ☐ Except as provided in items 18a and 25d, before employing counsel the receiver shall apply to the court for an order authorizing the receiver to employ counsel.

19. Taxpayer ID numbers. The receiver may use any federal taxpayer identification numbers relating to the property for any lawful purpose.

20. Duty to turn over possession. Upon receipt of a copy of a recorded trustee's deed upon foreclosure or written notice from plaintiff that defendant has cured the defaults existing under plaintiff's loan documents or that plaintiff has accepted a deed in lieu of foreclosure, the receiver shall, without further order of the court, turn over possession of the property to the successful purchaser or defendant or plaintiff respectively.

21. Plaintiff's notification of termination. Plaintiff shall notify the receiver in writing within 48 hours of any event within plaintiff's knowledge that terminates the receivership.

22. Receiver's final report and account and discharge.

- a. *Motion required.* Discharge of the receiver shall require a court order upon noticed motion for approval of the receiver's final report and account and exoneration of the receiver's bond.
- b. *Time.* Not later than 60 days after the receivership terminates, the receiver shall file, serve, and obtain a hearing date on a motion for discharge and approval of the final report and account.
- c. *Notice.* The receiver shall give notice to all persons of whom the receiver is aware who have potential claims against the receivership property.
- d. *Contents of motion.* The motion to approve the final report and account and for discharge of the receiver shall contain the following:
 - (1) *Receiver's declaration.* A declaration by the receiver stating what was done during the receivership and certifying the accuracy of the final accounting.
 - (2) *Accounting summary.* A summary of the receivership accounting, which shall include the total revenues received, the total expenditures identified and enumerated by major categories, the net amount of any surplus or deficit, and evidence of necessary supporting facts.
 - (3) *Plaintiff's declaration.* A declaration from the plaintiff containing evidence of the basis for the termination of the receivership (such as foreclosure or reinstatement) and admissible evidence to support an order for the distribution of any surplus or payment of any deficit.

23. Plaintiff's notice to receiver. Plaintiff shall promptly notify the receiver in writing of the names, addresses, and telephone numbers of all parties who appear in the action and their counsel. The parties shall give notice to the receiver of all events that affect the receivership.

PLAINTIFF (Name):	CASE NUMBER:
DEFENDANT (Name):	

24. **Bankruptcy — Plaintiff's duty to give notice.** If a defendant files a bankruptcy case during the receivership, plaintiff shall give notice of the case to the court, to all parties, and to the receiver within 24 hours after plaintiff receives notice of the bankruptcy filing.
25. **Bankruptcy — Receiver's duties.** If the receiver receives notice that a bankruptcy has been filed and part of the bankruptcy estate includes property that is the subject of this order, the receiver shall have the following duties:
- Turn over property if no relief from stay will be sought.* The receiver shall immediately contact the party who obtained the appointment of the receiver and determine whether that party intends to move in the bankruptcy court for an order for (a) relief from the automatic stay, and (b) relief from the receiver's obligation to turn over the property (11 U.S.C., § 543). If the party has no intention to make such a motion, the receiver shall immediately turn over the property to the appropriate entity — either to the trustee in bankruptcy if one has been appointed or, if not, to the debtor in possession — and otherwise comply with 11 United States Code section 543.
 - Remain in possession pending resolution.* If the party who obtained the receivership intends to seek relief immediately from both the automatic stay and the receiver's obligation to turn over the property, the receiver may remain in possession and preserve the property pending the ruling on those motions (11 U.S.C., § 543(a)). The receiver's authority to preserve the property shall be limited as follows:
 - The receiver may continue to collect rents and other income;
 - The receiver may make only those disbursements necessary to preserve and protect the property;
 - The receiver shall not execute any new leases or other long-term contracts; and
 - The receiver shall do nothing that would effect a material change in the circumstances of the property.
 - Turn over property if no motion for relief is filed within 10 days after notice of the bankruptcy.* If the party who obtained the receivership fails to file a motion within 10 court days after their receipt of notice of the bankruptcy filing, the receiver shall immediately turn over the property to the appropriate entity — either to the trustee in bankruptcy if one has been appointed or, if not, to the debtor in possession — and otherwise comply with 11 United States Code section 543.
 - Retain bankruptcy counsel.* The receiver may retain legal counsel to assist the receiver with issues arising out of the bankruptcy proceedings that affect the receivership.
 - Failure to turn over property.* A receiver who fails to turn over the property in accordance with this order shall not be paid for time and expenses after the date the receiver should have turned the property over.
26. ☐ **Other orders.** (Additional orders may include authority of the receiver to do any other acts arising from special circumstances.) Other orders ☐ are specified in Attachment 26 ☐ are as follows (specify):

PRELIMINARY INJUNCTION

27. DEFENDANT IS ORDERED to
- Turn over property.** Immediately turn over possession of the property described in Attachment 1 to the receiver when the appointment becomes effective, including any security deposits, prepaid rent, other rental or lease payments, and funds in property management bank accounts for the property.
 - Turn over related items.** Immediately turn over to the receiver all keys, books, documents, and records relating to the property and advise the receiver of federal taxpayer identification numbers relating to the property.
 - Insurance.**
 - Immediately advise the receiver about the nature and extent of insurance coverage on the property;
 - Immediately name the receiver as an additional insured on each insurance policy on the property; and
 - NOT cancel, reduce, or modify the insurance coverage.

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27. d. **Restraints.** Refrain from
- (1) committing or permitting any waste on the property or any act on the property in violation of law or removing, encumbering, or otherwise disposing of any of the fixtures on the property;
 - (2) demanding, collecting, or in any other way diverting or using any of the rents from the property;
 - (3) interfering in any manner with the discharge of the receiver's duties under this order;
 - (4) selling, transferring, disposing, encumbering, or concealing the property without a prior court order; and
 - (5) doing any act that will impair the preservation the property or plaintiff's interest in the property.

e. ☐ **Other** (specify):

28. PLAINTIFF IS ORDERED to immediately file a preliminary injunction bond under Code of Civil Procedure section 529 for: \$

29. ☐ OTHER ORDERS (specify):
☐ Specified in Attachment 29.

30. Number of pages attached: ____

Date:

JUDGE OF THE SUPERIOR COURT